

AG Contract No.: KR04-0029TRN
ADOT ECS File No.: JPA 03-089
Project No.: HRF- MMO-HF091 01C
TRACS No.: 0000 MO MMO HF091 01C
Section: Northern Ave- Banks St. to Mohave Wash
HURF Exchange Program

INTERGOVERNMENTAL AGREEMENT

BETWEEN
THE STATE OF ARIZONA
AND
MOHAVE COUNTY

THIS AGREEMENT is entered into 18th March, 2004, pursuant to Arizona Revised Statutes, Sections 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and MOHAVE COUNTY, acting by and through its BOARD OF SUPERVISORS (the "County").

I. RECITALS

1. The State is empowered by Arizona Revised Statutes Section 28-6993(g) to enter into this agreement and has delegated to the undersigned the authority to execute this agreement on behalf of the State.

2. The County is empowered by Arizona Revised Statutes Section 9-240 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has authorized the undersigned to execute this agreement on behalf of the County.

3. The State has approved the exchange of \$295,600.00 Highway User Revenue Funds (HURF) in Fiscal Year 2004 to the County for the construction of improvements to Northern Avenue to Banks Street to Mohave Wash, and such funds will be repaid to the State by withholding from the Western Arizona Council of Governments (WACOG) federal funds and the obligation authority for federal funds in the amount of \$311,777.00 in Fiscal Year 2004.

THEREFORE, in consideration of the mutual agreements expressed herein, it is agreed as follows:

NO. 26724
Filed with the Secretary of State
Date Filed: 03/18/04

Janice K. Brewer
Secretary of State

By: Vinny D. Graenewald

II. SCOPE OF WORK

1. The County will:

a. Provide design plans, specifications and such other documents and services required for construction bidding and construction.

b. Call for bids and award one or more construction contracts for the project. Administer same, and make all payments to the contractor(s). Be responsible for any additional funds required to complete the project and for any contractor claims for extra compensation due to delays or whatever reason. Comply with all applicable State laws, rules and regulations.

c. Invoice the State for thirty percent of the project construction cost, at the start of construction.

d. Invoice the State for thirty percent of the project construction cost, at the sixty percent construction completion stage, and for thirty percent of the project cost at the ninety percent project construction completion stages.

e. Upon completion, approve and accept the project as complete and provide maintenance. Provide the State with a letter documenting the notice of the approval and acceptance of the project.

f. Invoice the State for the remaining ten percent of the project cost at the one hundred percent project completion stage after the County, WACOG, and the State (ADOT) representatives have completed final project review.

2. The State will:

a. Within 30 days after receipt and approval of an invoice, pay for the project cost at the thirty percent project completion state, and for thirty percent of the project cost at the sixty percent project completion state, and for thirty percent of the project cost at the ninety percent project completion state, and pay 10 percent upon completion of construction.

b. Withhold from WACOG, federal funds and the obligation authority of federal funds \$311,777.00 in Fiscal Year 2004 for construction.

III. MISCELLANEOUS PROVISIONS

1. The State assumes no liability under this agreement. The County assumes full responsibility for the design, plans and specifications, reports, the engineering in connection therewith, cost over-runs and claims. It is agreed that the State's participation is confined solely to advancing highway user revenue funds; that any damages arising from carrying out, in any respect, the terms of this agreement or any modification thereof, shall be solely the liability of the County and that the County hereby agrees to save and hold harmless and indemnify from loss the State, any of its departments, agencies, officers or employees from any and all cost and/or damage incurred by any of the above and from any other damage to any person or property whatsoever, which is caused by any activity, condition, or event arising out of the performance or nonperformance of any provisions of this agreement by the State, any of its departments, agencies, officers and employees, the County, any of its agents, officers and employees, or any of its independent contractors. Costs incurred by the State, any of its departments, agencies, officers or employees shall include in the event of any action, court costs, and expenses of litigation or attorneys' fees.

2. This agreement shall remain in force and effect until completion of said project; provided, however, that this agreement, except any provisions herein for maintenance, which shall be perpetual, unless assumed by another governmental entity, may be canceled at any time prior to the award of a construction contract, upon thirty (30) days written notice to the other party.

3. This agreement shall become effective upon filing with the Secretary of State.

4. This agreement may be canceled in accordance with Arizona Revised Statutes Section 38-511.

5. The provisions of Arizona Revised Statutes Section 35-214 are applicable to this contract.

6. In the event of any controversy, which may arise out of this agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes Section 12-1518.

7. **Non-Discrimination.** The contractor shall comply with Executive Order 99-4, which mandates that all persons, regardless of race, color, religion, sex, age, national origin or political affiliation shall have equal access to employment opportunities, and all other applicable state and federal employment laws, rules and regulations, including the Americans With Disabilities Act. The contractor shall take affirmative action to ensure that applicants for employment and employees are not discriminated against due to race, creed, color, religion, sex, age, national origin or political affiliation or disability.

8. This agreement is subject to all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36. The parties to this agreement shall comply with Executive Order Number 99-4 issued by the Governor of the State of Arizona and incorporated herein by reference regarding "Non-Discrimination".

9. **Non-Availability of Funds.** Every payment obligation of State and the County under this contract is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this contract, this contract may be terminated by the State and the County at the end of the period for which the funds are available. No liability shall accrue to the State and the County in the event this provision is exercised, and the State and the County shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.

10. All notices or demands upon any party to this agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Arizona Department of Transportation
Joint Project Administration
205 S. 17th Avenue – Mail Drop 616E
Phoenix, AZ 85007

Mohave County
County Manager
P.O. Box 7000
Kingman, AZ 86402

11. In Accordance with Arizona Revised Statutes Section 11-952, (D) attached hereto and incorporated herein is the written determination of each party's legal counsel that the parties are authorized under the laws of this state to enter into this agreement and that the agreement is in proper form.

IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

MOHAVE COUNTY

STATE OF ARIZONA

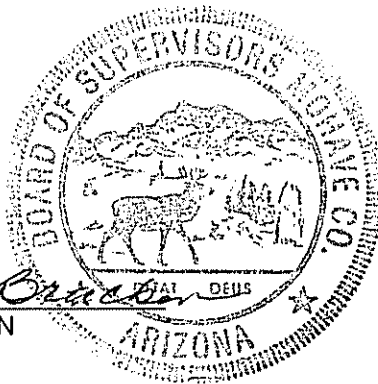
Department of Transportation

By Pete Byers
PETE BYERS 3-1-04
Chairman of the Board

By Dale Buskirk
DALE BUSKIRK, Division Director
Transportation Planning Division

ATTEST

By Barbara Bracken
BARBARA BRACKEN
Clerk of the Board



MOHAVE COUNTY REQUEST FOR BOARD ACTION FORM

From: Michael P. Hendrix, P.E. ^{Public Works Director}

FORMAL ACTION ☐

CONSENT ☒

RESOLUTION ☐

OTHER ☒

INFORMATION ONLY ☐

Date: February 17, 2004

BOS Meeting Date: March 1, 2004

SUMMARIZE THE ISSUE & DESIRED ACTION CLEARLY/ATTACH BACKUP MATERIAL:

In 2001, the WACOG Transportation Advisory Committee recommended approval of the funding for improvements to Northern Avenue in the HURF Exchange amount of \$295,600 with a potential local match of \$69,350. This project has also been approved for FY 2002/2003 in the County's Capital Improvement Plan by the Board of Supervisors, however, it could not be started until improvements to Northern Avenue at the Mohave Wash were completed.

Recommended Motion: Move to approve the IGA between Arizona Dept of Transportation for the purpose of funding improvements to Northern Avenue from Bank Street Project No. HRF-MMO- HF091 01C, in the HURF Exchange amount of \$295,600. design plans and contract administration and a maximum local match of \$69,350 for dollars.

RECEIVED

MAR 08 2004

ENGINEERING CONSULTANTS
SERVICES

Reviewed and Approved By:

County Attorney ☒

Personnel ☐

Finance ☒

County Manager ☒

Board Action Taken:

Approved as Requested ☒

No Action Taken ☐

Disapproved ☐

Continued to _____

☐ Approved with the following changes:

Acknowledged receipt and referred to _____

Filing Information and Retrieval

Filed Bid _____

BOS Resolution _____

Filed Petition _____

Filed Land Sold _____

Filed Franchise _____

Filed Improvement District _____

☒ Filed Agreement _____

Filed Yearly Correspondence _____

Filed Dedication _____

Filed Land Acquired _____

I.D. Resolution _____

Filed Other _____

Date Routed: 3-2-04

Additional Information: Once signed

by the State, please return a copy. Thanks

XC: Finance

You are reminded that items for the agenda, along with complete backup, must be in the County Manager's Office 10 days prior to Board Meeting.

Item No. 48

APPROVAL OF THE MOHAVE COUNTY ATTORNEY

I have reviewed the above referenced proposed intergovernmental agreement, between the DEPARTMENT OF TRANSPORTATION, INTERMODAL TRANSPORTATION DIVISION and the MOHAVE COUNTY, an agreement among public agencies which, has been reviewed pursuant to A.R.S. section 11-951 through 11-954 and declare this agreement to be in proper form and within the powers and authority granted to the County under the laws of the State of Arizona. No opinion is expressed as to the authority of the State to enter into this agreement.

DATED this 19th day of February 2004

Matthew J. Smith
County Attorney



OFFICE OF THE ATTORNEY GENERAL
STATE OF ARIZONA

TERRY GODDARD
ATTORNEY GENERAL

CIVIL DIVISION
TRANSPORTATION SECTION
WRITER'S DIRECT LINE 602.542.8855


INTERGOVERNMENTAL AGREEMENT
DETERMINATION

A.G. Contract No. KR04-0029TRN (**JPA 03-089**), an Agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the Undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining Parties, other than the State or its agencies, to enter into said Agreement.

DATED: March 15, 2004.

TERRY GODDARD
Attorney General


SUSAN E. DAVIS
Assistant Attorney General
Transportation Section

SED/mjf
Attachment
834520